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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/055,672	01/23/2002	Kazuhiro Namba	F-7294	7969

28107 7590 07/18/2005  
JORDAN AND HAMBURG LLP  
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NEW YORK, NY 10168

EXAMINER

JONES, SCOTT E

ART UNIT	PAPER NUMBER
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3713

DATE MAILED: 07/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/055,672

Applicant(s)

NAMBA ET AL.

Examiner

Scott E. Jones

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 January 2005 and 03 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,4-8 and 10-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-8 and 10-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

***Response to Amendment***

1. This office action is in response to the amendment and supplemental amendment filed on January 18, 2005 and February 3, 2005, respectively in which applicant amends claims 1, 7, 8, and 10-13, and responds to the claim rejections. Claims 1, 2, 4-8, and 10-13 are pending.
2. The supplemental reply filed on February 3, 2005 was not entered because supplemental replies are not entered as a matter of right except as provided in 37 CFR 1.111(a)(2)(ii). The supplemental reply does not clearly place the application in condition for allowance. If applicant wishes to have the supplemental reply considered, Applicant must include the contents of the supplemental reply in a subsequent proper reply.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, 4-8, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Lipson (U.S. 5,435,554).

Lipson discloses a system and method for realistically simulating a baseball game by utilizing game player's inputs to affect the real-world factors present in baseball. Lipson discloses:

Regarding Claims 1, 7, 8, and 13:

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- displaying a game image including a plurality of characters, a bat character, and a strike zone on a monitor screen of a computer (Fig. 3a);
- receiving input of contents of instructions based on a moving operation and a button operation made by the game player on a pointing device (Abstract, Figs. 1b, 2, 4b, 4c, 4d, 5b, 6a, column 3, line 45-column 4, line 8, column 4, line 61-column 5, line 22, column 6, line 51-column 7, line 12, and column 11, line 40-column 12, line 9); and
- proceeding a baseball game based on the input made by the game player; wherein in said receiving step, the designation of instructions for the pitching action of a pitcher character is accomplished by the operation of said pointing device when the game player's team is the defensive side, designation of instructions for the offensive action of a batter character is accomplished by the operation of said pointing device when the game player's team is the offensive side, and a selection of bunting or hitting as said offensive action is accomplished by a button operation of said pointing device, and designation of instructions for alteration of a height of the bat character within an area defined by an upper limit and a lower limit of the strike zone; and an orientation of the bat character; is accomplished singly by the moving operation of said pointing device based on a moving amount and a moving direction of the pointing device in cases where bunting is selected as the offensive action of said batting character; (Abstract, Figs. 1b, 2, 4b, 4c, 4d, 5b, 6a, column 3, line 45-column 4, line 8, column 4, line 61-column 5, line 22, column 6, line 51-column 7, line 12, column 11, line 40-column 12, line 9, Column 14, lines 17-35, Column 10, line 51); In addition to pressing any one of buttons (37, 38, or 39) to determine the swing type a player

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designates the orientation and height of the bat character with the pointing device (18).

- changing the height of the bat character and displaying a corresponding change in vertical positioning of the bat character within the strike zone displayed on the monitor screen according to the received instructions regarding the alteration of the height of the bat character (Column 14, lines 17-35 and Column 10, line 51).

Regarding Claim 2:

- said pointing device has at least two buttons including a first button and a second button, and said selection of bunting or hitting is accomplished by performing different button operations on said first button and second button (Column 11, line 40-column 12, line 9 and Fig. 1b).

Regarding Claim 4:

- the operation regarding the alteration of the height and the orientation of said bat character is received after the pitching action of the pitcher character is initiated (Column 14, lines 17-35).

Regarding Claim 5:

- the degree of success of the batting action is judged in accordance with the degree of overlap of said bat character and said ball character and the orientation of said bat character when said bunting is selected (Column 14, line 36-column 15, line 7 and Fig. 4e).

Regarding Claim 6:

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- further comprising the steps of setting parameters that define abilities for each batter character of said game player's team, and changing these parameters in accordance with said batting results and said pitching results (Column 8, lines 7-32).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lipson (U.S. 5,435,554).

Lipson discloses to one of ordinary skill in the art that as discussed above regarding claims 1, 2, 4-8, and 13. However, Lipson seems to lack explicitly disclosing:

Regarding Claims 10, 11, and 12:

- receiving inputs for the game by the game player on a (computer) mouse.

However, regarding claims 10, 11, and 12, to one having ordinary skill in the art, utilizing a computer mouse for game player inputs into a video game was notoriously well known at the time of Applicant's invention. Particularly, the inputs provided by the player by rolling the trackball of the mouse on a surface provide the same function as a joystick moved by a player in a traditional video game, such as the one described in Lipson. One would be motivated to utilize a computer mouse for game player inputs into a video game in order for a game player to enjoy a game without requiring the player to obtain a joystick, or other game input device, for use on a personal computer.

*Response to Arguments*

7. Applicant's arguments filed January 18, 2005 with regards to the rejection to claims 1, 2, 4-8, and 13 under 35 U.S.C. 102(b) as being anticipated by Lipson (U.S. 5,435,554) and with regards to the rejection to claims 10-12 under 35 U.S.C. 103(a) as being unpatentable over Lipson (U.S. 5,435,554) have been fully considered but they are not persuasive.

8. Applicant respectfully traverses the rejection to Claims 1, 2, 4-8, and 13 under 35 U.S.C. 102(b) as being anticipated by Lipson (U.S. 5,435,554) because the cited reference allegedly fails to disclose:

- In each of claims 1, 7, 8, 10, 11, 13, and similarly in claim 12, the feature of changing the height of the bat character and displaying a corresponding change in vertical positioning of the bat character within the strike zone displayed on the monitor screen.

The examiner respectfully disagrees. Lipson discloses a simulation of a real baseball game on a video display (12) which depicts game events based on user inputs (Figure 3a, Column 3, lines 50-51 and 53-54, Column 4, lines 12-13), including the section of the strike zone through which the batter actually swung. The simulation includes a process for an animation model process (43) which receives electrical signals corresponding to movements of user inputs...[and] the appropriate screen display that provides user feedback. These screen displays will include the baseball playing field representation and associated actions of the various players on the field that occur during a typical baseball game. (Column 5, lines 29-42). Furthermore, Lipson discloses the animation process (43) continually provides an updated display state to

the video process (47). (Column 5, lines 62-63). Additionally, Lipson discloses a typical display screen of images of a baseball game are shown in Figures 3a and 3b as noted by Applicant, however, Lipson is not restricted to this view only. In fact, Lipson discloses the actual images displayed will vary greatly according to the particular stage of the game (Column 6, lines 20-35). Lipson goes on to disclose the baseball is displayed (and the ball position is updated) on the video display screen during the pitch and the ball movement toward the plate is displayed while the game awaits an indication that the batter is swinging (Column 11, lines 1-10 and 26-27). Also, Lipson discloses a batter animation sequence which is also displayed on the video display screen (Column 11, lines 40-62). In addition to the pitched baseball being continually updated on the video display screen, the batter's swing position will be updated and displayed on the video display screen (Column 13, line 64-Column 14, line 2). Lastly, at least claims 1 and 19 disclose simulating and displaying on a video display a representation of a baseball playing field with baseball players comprising at least a pitcher and a batter.

- The single operation executed by the player controlling height and orientation of the bat character based on a moving amount and a moving direction. In addition to the cite referenced in the rejection, claim 21 discloses this feature.
- A display of actually changing a height of the bat character in the strike zone when a game player is operating an operation device, be it a switch or a joystick. In addition to the cite referenced in the rejection, claim 21 discloses this feature. Furthermore,



the strike zone may be broken down to more than three regions; the strike zone may comprise a number of regions to define the strike zone (Column 14, lines 25-27).

- an actual display of the bat character that is movable vertically within the strike zone (SZ) upon movement of an input device by the game player when the bunting operation is selected (supra).

Applicant further alleges Lipson does not display a bat character held by a batter character for a bunting operation, nor the changing the height of the bat character displayed on the screen (supra).

For the reasons discussed hereinabove, the examiner maintains the rejection stated in previous Office Action, Paper No. 10132004.

9. Applicant respectfully traverses the rejection to claims 10-12 under 35 U.S.C. 103(a) as being unpatentable over Lipson (U.S. 5,435,554) because the reference allegedly does not provide a suggestion or a motivation to one of ordinary skill in the art to make specific functional use of a mouse for executing the particular process in the game in the manner as claimed. The examiner respectfully disagrees. The examiner asserts to one having ordinary skill in the art, utilizing a computer mouse for game player inputs into a video game was notoriously well known at the time of Applicant's invention. Particularly, the inputs provided by the player by rolling the trackball of the mouse on a surface provide the same function as a joystick moved by a player in a traditional video game, such as the one described in Lipson. One would be motivated to utilize a computer mouse for game player inputs into a video game in order for a game player to enjoy a game without requiring the player to obtain a joystick, or other game input device, for use on a personal computer.

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For the reasons discussed hereinabove, the examiner maintains the rejection stated in previous Office Action, Paper No. 10132004.

***Conclusion***

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott E. Jones whose telephone number is (571) 272-4438. The examiner can normally be reached on Monday - Friday, 8:30 A.M. - 5:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on (571) 272-7147. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Scott E. Jones  
Primary Examiner  
Art Unit 3713

A handwritten signature in black ink, appearing to read "Scott E. Jones", written in a cursive style.

sej